



COMMONWEALTH OF MASSACHUSETTS
**Board of Registration
of
Hazardous Waste Site Cleanup Professionals**

**MINUTES
of
BOARD MEETING**

Held on
August 19, 2009

Meeting Location: Department of Environmental Protection
627 Main Street
Worcester, Mass.

Prepared by: Staff

[Approved: September 30, 2009]

1. **Call to Order:** Chairperson Janine Commerford called the meeting to order at 3:00 p.m. The other Board members present were Gail Batchelder, Kirk Franklin, Christophe Henry, Gretchen Latowsky, Robert Luhrs, Kelley Race, and Debra Stake. Deborah Farnsworth and Jack Guswa were absent. The LSP Board staff members present were Allan Fierce (until 3:35), Lynn Read, Brian Quinlan, Terry Wood, Al Wyman, and Ron Viola.
2. **Announcements:** There were no announcements.
3. **Agenda:** The Board members agreed to modify the draft agenda by moving draft item 8.I. forward so that it would be the next topic of discussion.
4. **Discussion of Procedural Issues re: Review of License Applications from Individuals Whose Previous Licenses Were Revoked:** At the July meeting, the Board requested that this topic be put on this month's Agenda.

Mr. Fierce handed out a list of issues for possible discussion.

The Board began the discussion by noting those sections of both the Board's governing statute and the regulations that contain requirements for reviewing any license application. Among other things, it was noted that the standards for application approval did not change for applicants whose previous licenses were revoked. Those standards are as follows:

- (a) Statutory Standard: G.L. c. 21A, § 19B, states that the Board “*may grant an application for an initial license . . . only if and while the board is persuaded that the applicant for . . . the license is in compliance, and will be in compliance routinely and on a continuing basis, with all standards and requirements applicable to [LSPs].*”
- (b) Experience: The regulations specify that the applicant must meet the overall RPE and TPE requirements and demonstrate that “*at least three years*” of that RPE “*occurred within five years prior to the submission of the application.*” It was also noted that the regulations require that all applicants demonstrate that their qualifying RPE was “performed with proficiency.”
- (c) Good Moral Character: All applicants must demonstrate that they possess good moral character.

The Board also noted that the regulations provide a significant degree of flexibility with respect to how an application is reviewed. For example, the regulations give the Board broad authority, at its discretion, to require any applicant to “*provide additional information*” or to “*furnish additional documentation*” pertaining to his or her application. 309 CMR 3.03. In addition, the regulations give the Board broad discretion to “*obtain information about the applicant from the Department, current and former employers, supervisors, and others.*” 309 CMR 3.03(3). The regulations also give the Board discretion to “*require an applicant to appear for a personal interview for the purpose of answering questions pertaining to an application.*” 309 CMR 3.03(4).

The Board discussed how the flexibility afforded by the regulations could be utilized during the review of applications submitted by individuals whose previous licenses had been revoked.

At the conclusion of discussion, no motions were offered.

- 5. **Minutes**: The Board reviewed the draft minutes of the meeting of the Board held on July 23, 2009. **A motion was made and seconded to approve the minutes as drafted. The motion was approved unanimously.**
- 6. **Reports From Recent Quasi-judicial Sessions**: The staff requested and received the Board’s unanimous consent to publish in the minutes of this meeting the following report from a previous quasi-judicial session of the Board.

Final Order Re: Complaint 06C-04

At a quasi-judicial session held on March 13, 2009, the Board’s General Counsel, Terry Wood, presented the terms of a proposed Administrative Consent Order (“ACO”) that, if approved, would resolve this Complaint prior to the issuance of an Order To Show Cause.

The members of the Board who were present were as follows: Ms. Batchelder, Ms. Farnsworth, Mr. Guswa, Mr. Luhrs, Ms. Latowsky, Ms. Race, and Ms. Stake.

The members of the CRT, which included Mr. Henry, Mr. Franklin, and Mr. Fierce, were recused and not present in the room.

Ms. Wood explained that the Respondent in this matter was no longer an LSP, having allowed his license to lapse when it came up for renewal on January 30, 2008. Because more than a year had passed since that date, the Board's regulations specified that the Respondent would have to reapply to be licensed again as an LSP.

Ms. Wood said that, under these circumstances, the Respondent and the CRT had agreed jointly that it would be appropriate, subject to the Board's approval, to resolve this matter with an ACO in which the Respondent agreed that he would not reapply at any time in the future for a license to practice as an LSP and, in return for this commitment, the Board agreed that it would dismiss this Complaint without prejudice.

Thus, both the CRT and the LSP were recommending that the Board approve an ACO in this form.

The Board members present discussed the proposed ACO. At the conclusion of the discussion, they unanimously approved a motion to accept the general terms of the proposed ACO as proposed by the parties.

Ms. Stake was designated to act for the Board and sign an ACO containing this resolution.

Thereafter, an ACO containing these terms was signed on 3/24/09, and this case was thereby dismissed without prejudice.

Throughout this discussion, the Respondent's name was kept confidential. Now that this matter has been concluded, the Respondent's name – Philip Virgadamo – is being made public.

7. **Decisions Regarding License Applicants:** The staff presented the following Application Dockets:

Docket No. 1: The applicant's name, company name, application number, and Application Review Panel recommendation were read into the record:

		<u>App. No.</u>	<u>ARP</u>	<u>Rec.</u>
John E. Harvey	Corporate Env't'l Advisors, Inc.	#2002	225	A

Ms. Commerford was recused and left the room.

A motion was made and seconded that the Board accept the recommendation from Application Review Panel #225, i.e., that the application submitted by Mr. Harvey

be approved and that he be found eligible to take the exam. The motion was approved unanimously.

Ms. Commerford returned and rejoined the meeting.

Docket No. 2: The applicants' names, company names, application numbers, and Application Review Panel recommendations were read into the record:

		<u>App. No.</u>	<u>ARP</u>	<u>Rec.</u>
Lynn M. Grochala	GeoInsight, Inc.	#3084	227	A
Goeffrey R. Souza	SITEC Environmental	#4122	227	A
Scott A. Masse	Corporate Env'tl Advisors, Inc.	#9102	227	A

Ms. Commerford and Mr. Henry were recused and left the room.

A motion was made and seconded that the Board accept the recommendations from Application Review Panel #227, i.e., that the applications submitted by Ms. Grochala, Mr. Souza, and Mr. Masse be approved and that they be found eligible to take the exam. The motion was approved unanimously.

Ms. Commerford and Mr. Henry returned and rejoined the meeting.

8. License Renewal Applications:

A. Renewal Dockets. The staff presented the following License Renewal Dockets:

Renewal Docket #1

License Renewal

Renewal Date: July 30, 2009

Have met all requirements for renewal.

New Renewal Date: July 30, 2012

- | | |
|------------------------|-------|
| 1. John A. Chambers | #4130 |
| 2. Cheryl Lynn Coderre | #6410 |
| 3. Adam M. Galonski | #8222 |
| 4. Robert D. Lucci | #8882 |
| 5. Neil Shifrin | #1009 |

Renewal Docket #2

Renewal after 90-day Extension

Renewal Date: April 30, 2009

Has met all requirements for renewal.

New Renewal Date: April 30, 2012

1. Donald J. Maggioli #3427

Renewal Docket #3
Request for a 90-day Extension

Renewal Date: July 30, 2009

Qualify for and are requesting a 90-day extension.

New Renewal Date: October 28, 2009

1. Richard M. Carnevale #2667
2. Christopher M. Crandell #3291
3. Anthony W. Makovitch #2207

Renewal Docket #4
Renewal After Expiration

Have now met all requirements for renewal.

New renewal date: October 30, 2012

1. Jerome J. Cura #6151
2. Anthony Riccio #7933

A motion was made and seconded to renew the licenses of the LSPs on Renewal Dockets #1, #2, and #4 for a three-year period ending on the dates indicated and to grant a 90-day extension to the LSPs on Renewal Docket #3. The motion was approved unanimously.

B. Other Renewal-related Matters. The staff reported that no waiver requests had been received since the previous meeting, and there were no other renewal-related matters.

9. Other Licensing-Related Matters:

A. New Panel Assignments and Scheduling. The following Board members were assigned to Application Review Panel # 228: Ms. Commerford, Mr. Franklin, and Ms. Race.

B. Appeals Status Report. Ms. Wood reported that there are no pending appeals regarding the Board's denial of a license application.

C. Inactive Status Report. The staff reported the following changes to the list of Inactive LSPs:

- Scott R. Shelton (#9577) – Deceased.

- Mark Welsh (#9282) – Requested and was placed on Inactive Status on 7/27/09.

A total of four (4) LSPs remain on Inactive Status.

- D. License Reinstated after Suspension.** The staff reported that on 8/11/09 it had reinstated the license of James Matz (#5323) at the conclusion of his license suspension period.
- E. Did Not Renew.** The staff reported that Thomas P. Woodard (#1410) did not renew his license within the 90-day extension period he had been granted. Therefore, his license expired at c.o.b. on 7/29/09.
- F. Total Number of Active and Inactive LSPs.** Mr. Fierce reported that the total number of Active LSPs as of the date of this meeting was 550.
- G. Revisions to Application Form Questions (Application Committee).** Mr. Henry reported that the Committee had recently had a conference call and would present its recommendations to the Board at the September meeting.

10. Examinations:

- A. New Licensees.** The staff reported that the exam had not been administered since the previous meeting.
- B. Next LSP Exam.** The staff reported that the next exam administration date is August 26, 2009.

11. Continuing Education Committee Report:

- A. Course and Conference Approval Requests.** Mr. Wyman reported that the Committee had met earlier in the day and had the following course recommendation to present to the full Board:

Sponsor: MassDEP

Course Title: “AULs: Achieving Compliance” and “Demystifying DEP Enforcement of G. L. c. 21E and the MCP” (This is a 2-part workshop.)

Credits Requested: 2 DEP Course credits

Committee Recommendation: **Approve this course for the credits requested.**

A motion was made and seconded to accept the Committee’s recommendation. The motion was approved unanimously.

- B. Other Business.** The Committee had no other business to report.

12. **Professional Conduct Committee:** Since all the Board members present at this meeting were also present at the meeting of the Professional Conduct Committee held earlier in the day, the Board agreed to forego a Committee report.
13. **Personnel, Budget, and Fees:** Ms. Commerford announced that the legislature's cuts in MassDEP's FY-2010 budget, which resulted from the state's reduced revenue collection, will unfortunately require MassDEP to reduce its staffing by 20-30 full-time positions. The layoffs will be announced in August or September 2009 and will take effect in October.
14. **Status of Board Member Replacements by Governor:** Ms. Commerford again stated that the Governor has not acted on the pending replacement request.
15. **Other Business:** The Board discussed possible topics for the next LSPA newsletter.
16. **Scheduling of Next Meeting:** The Board agreed to hold its next meeting on September 30, 2009, at a location to be determined. The following meeting was tentatively scheduled for October 29, 2009, at a location to be determined.
17. **Enter Executive Session:** **A motion was made and seconded that the Board enter Executive Session for the purpose of discussing litigation strategy, and that the Board not return to Open Session thereafter.** Ms. Commerford conducted a roll-call vote. Each member present voted as follows:

Ms. Batchelder	Aye	Ms. Latowsky	Aye
Ms. Commerford	Aye	Mr. Luhrs	Aye
Mr. Franklin	Aye	Ms. Race	Aye
Mr. Henry	Aye	Ms. Stake	Aye

At 4:22 p.m. the Board entered into Executive Session.